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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

KEVIN NELSON,

Plaintiff and Respondent,

v.

Estate of JOSE HOLGUIN,
Deceased,

Defendant and Appellant.

B298135

Los Angeles County
Super. Ct. No. BC656538

APPEAL from an order of the Superior Court of Los Angeles County, Maurice A. Leiter, Judge. Dismissed.

Farmer Case & Fedor and Tiffany L. Steward for Defendant and Appellant.

Law Offices of John C. Ye and Joseph C. Dayball for Plaintiff and Respondent.

In this appeal, the Estate of Jose Holguin (the estate) challenges the trial court's postjudgment imposition of a cost-of-proof award against it under Code of Civil Procedure section 2033.420. Because the estate, through its insurer, voluntarily paid the award as well as the remainder of the judgment, and those payments have been completely disbursed to various parties including lienholders, we grant the motion to dismiss the appeal filed by plaintiff and respondent Kevin Nelson (plaintiff).

Plaintiff was injured in an automobile accident. He subsequently sued the estate of the driver (Jose Holguin, the decedent) who caused the accident. Plaintiff named only the estate, and not a representative of the estate, in the suit and was therefore limited to recovering damages from the proceeds of the decedent's liability insurance. (See Prob. Code, § 550.) The decedent's insurer is State Farm Mutual Automobile Insurance Company (State Farm).

A jury determined that the decedent was 100 percent at fault in the accident and awarded plaintiff \$167,250 in damages. The court entered judgment in plaintiff's favor and State Farm paid the judgment in full.

Plaintiff subsequently filed a motion under Code of Civil Procedure section 2033.420 seeking to recover the cost of proving certain facts denied by the estate in response to requests for admission. The court ultimately awarded plaintiff \$52,245.40 for cost of proof, as well as costs of suit, and entered an amended judgment accordingly. State Farm voluntarily paid plaintiff the full amount of the costs of suit and cost-of-proof award. That payment notwithstanding, the estate purports to appeal from the court's post-judgment order for cost of proof.

“ ‘A party who voluntarily complies with the terms of a judgment, or who satisfies it by voluntary payment or otherwise, impliedly waives the right to appeal from it.’ (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 209, p. 264; *A.L.L. Roofing & Bldg. Materials Corp. v. Community Bank* (1986) 182 Cal.App.3d 356, 359; *Hellman Commercial T. & S. Bk. v. Alden* (1929) 206 Cal. 592, 599.) ‘[A]n appeal is dismissed if the judgment is satisfied ... because the satisfaction moots the issues on appeal. [Citation.]’ (*A.L.L. Roofing & Bldg. Materials Corp. v. Community Bank, supra*, at p. 359.) The satisfaction of judgment ‘is decisive of the rights of the parties and bars reopening the issues settled. Absent a fundamental defect the terms are binding on the parties.’ (*Ibid.*)” (*Rancho Solano Master Assn. v. Amos & Andrews, Inc.* (2002) 97 Cal.App.4th 681, 688; see also *Miller v. Cabral* (1970) 13 Cal.App.3d 503, 506 [appeal dismissed in the absence of a compromise or settlement where the liability insurer paid the judgment in full and the monies had been disbursed].)

Because the postjudgment cost-of-proof award has been fully and voluntarily satisfied, and State Farm’s payment has already been disbursed, we conclude that the present appeal must be dismissed. We therefore grant plaintiff’s motion to dismiss.

DISPOSITION

The motion to dismiss is granted and the appeal is dismissed. The request for sanctions on appeal is denied. Plaintiff shall recover his costs on appeal.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

DHANIDINA, J.